Supreme Court, U. S.
FILED
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In The

Supreme Court of the United States

October Term, 1973

No. 73-1750

PITT COUNTY TRANSPORTATION COMPANY,
Petitioner,

v.

CAROLINA FREIGHT CARRIERS CORPORATION,

FOR THE USE AND BENEFIT OF

LIBERTY MUTUAL INSURANCE COMPANY,
Respondent.

AND

OLD REPUBLIC INSURANCE COMPANY,
Respondent.

Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fourth Circuit

REPLACEMENT APPENDIX F

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Pitt County Transportation Company

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REPLACEMENT APPENDIX F

This replacement Appendix is only intended to provide a more legible copy of the Motor Vehicle Trip Lease Agreement at issue in this case and to replace pages 24(a) and 25(a) of Appendix F to the Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit filed in the above case.

Form 323
4/69

CAROLINA FREIGHT CARRIERS CORPORATION
SPECIAL COMMODITIES DIVISION

P. O. Box 697

CHERRYVILLE, NORTH CAROLINA 28021

Manifest No. _____

Pro. No. S-378704

Advance: Ck. No. NONE

Amount NONE

Lease Agreement

Placards Issued Issued Serial No. 006-006

Carolina Freight Carriers Corporation, Lessee, hereby acknowledges receipt of and leases from Pitt County Trucking Co. Lessor, of Farmville (St. Address) North Carolina (City, State) 919-SK3-3109 (Telephone No.) for its exclusive possession, control, and use, and assumes complete responsibility in respect thereto for the duration of this Motor Vehicle Trip Lease Agreement, the following vehicular equipment to be used by said lessee beginning at 1PM o'clock on 6/19/69 (Date) in its interstate service to transport merchandise.

DRIVERS NAME(S)

(1) Name	Address	City	State	Phone
Ira J Pugh	PO Box 417	Winterville	N.C.	None
(2) Name	Address	City	State	Phone

(1) Chauffeur's License No.	State	Expires	Social Security No.	(2) Chauffeur's License No.	State	Expires	Social Security No.
2891100	N.C.	7/28/69					

DESCRIPTION OF VEHICLE(S)

WITNESSETH, THAT WHEREAS, LESSOR is the owner of motor vehicle equipment suitable for the transportation of property which equipment is more particularly described as follows:

	Make	Year	Model	Serial No.	License No.	State	Year
TRACTOR	Inter.	63	Tr.	5824050	3111 PA	N.C.	2/15/70
TRAILER	E. Van	64		12267	999-Z	N.C.	2/15/70

For and in consideration of the sum of (inclusive of driver's wages) $ 75% or _____ % of $ 5625.00 and whereas, LESSOR desires to lease the above described motor vehicle equipment to LESSEE, and LESSEE desires to consummate such lease. Now, therefore, it is hereby agreed between the parties hereto that for the consideration expressed in the manifest issued by the LESSEE or SUBLESSEE, in connection with each trip of the vehicle, or otherwise agreed between LESSOR and LESSEE, the LESSOR leases said equipment to the LESSEE upon the following terms and conditions set forth below and on the reverse side hereof which are made a part hereof the same as if written below.

FROM: City	State	Date	Time A.M. P.M.	TO: City	State	Date	Time
New York, N. Y.				Pampano Beach,	Florida		

CONSIGNOR	ORIGIN	CONSIGNEE	DESTINATION	Approximate Weight
Manitowoc Crane	New York, N.Y. Pier #32 North	Bay Steel Prod.	Pampano Beach Florida	24,000

INSPECTION RECORD (Section 2074(c)MC-43

TRACTOR	Not Defective	Defective	Date Corrected	TRACTOR	Not Defective	Defective	Date Corrected	TRAILER	Not Defective	Defective	Date Corrected
Air Compressor				Lights-Reflectors				Breakaway, Emergency			
Brakes, Service				Licenses				Brakes Service			
Brakes, Parking				Mirrors				Brake Connections			
Breakaway Valve				Safety Equipment				Hoses, Air			
Clutch-Transmission				Speedometer				Identification			
Exhaust System				Springs				Landing Gear			
Fuel System				Steering				Lights & Reflectors			
Fifth Wheel				Tires & Wheels				Mud Flaps			
Heat-Defroster				Wipers				Pickup Plate			
Hoses-Air				Warning Systems, Air				Tires & Wheels			
Identification				Other				Springs			
Indicator, Air				No Defects				Undercarriage			
								Other			
								No Defects			

Remarks: None

I hereby certify that on 6/19/69 (Date Inspected) I carefully inspected the above and this is a true and correct report of same. _____ (Signature of Inspector)

I hereby certify that on the date stated above the person who made the inspection covered by this report was competent and qualified to make such inspection and was duly authorized to make such an inspection as a representative of this company. 6/19/69 (Date) _____ (Signature) Shop Manager (Title)

DRIVER'S INSTRUCTIONS: Stop into Carolina Frt. Terminal & Cherryville N.C. for Florida Cab Card.

RECEIPT FOR POSSESSION OF EQUIPMENT

Received from Pitt County truck (Lessor's Name)

The equipment described above on (date) 6/19/69

at Hallsville time 1:PM a.m. p.m.

N. Carolina Freight Carriers Corporation

Per _____

RECEIPT FOR RETURN OF EQUIPMENT

Received from CAROLINA FREIGHT CARRIERS CORP.

The equipment described above on (date) 6-26-69

at Rupert B K time 11:30 a.m. p.m.

Signed _____ (Lessor's Name)

I certify that the vehicle described in this Motor Vehicle Trip Lease Agreement had, just prior to the effective date of this lease, completed a haul of exempt commodities as described in Section 203 (b) (6) of the Motor Carrier Act.

This load of exempt commodities consisting of _____ (commodity)

originated at: _____ (City and State) on _____ (Date) and unloaded at destination

_____ (City and State) on _____ (Date)

I, _____ (Owner or Agent duly authorized to act in Lessor's behalf) do hereby further certify that I have authority to lease the vehicle described above in the Motor Vehicle Trip Lease Agreement.

Per: _____ (Signature of owner or agent duly authorized in Lessor's behalf)

DRIVERS CERTIFICATE FOR ON DUTY TIME FOR PRIOR SEVEN DAYS (Must include all time shown on lines 3 and 4 of your logs)

REVISED SECTION 195.8 MOTOR CARRIER SAFETY REGULATIONS 6-30-64

DRIVER	Total Hours	From Date	Thru Date	
1st	37	6/12	6/19	
2nd				

I certify, by my signature below, that the total hours on duty for seven previous days, as so stated, are true and correct and further that I was relieved from duty prior to this trip on the following:

1st Driver

Date 6/18 Hour of Day 6 A.M. P.M.

2nd Driver

Date _____ Hour of Day _____ A.M. P.M.

Signature of 1st Driver _____

Signature of 2nd Driver _____

Tractor Permit Numbers	Trailer Permit Numbers

BEST COPY AVAILABLE

TERMS AND CONDITIONS OF THIS LEASE

1. That LESSEE may and has the right to forthwith sublease this equipment to a common carrier.

2. LESSEE will assume and pay all costs of public liability and property damage insurance on the vehicle while operating at the direction of the Lessee and provide insurance covering cargo being transported at the direction of the Lessee. However, in the event any loss or damage to cargo or property damage or personal injury to any third person takes place by reason of negligence or dishonesty of the owner, its agents, servants, or employees, then the owner does hereby agree to assume and be fully responsible for any such damage and, in the event payment shall be made by the Lessee herein, Lessor does hereby agree to indemnify the Lessee and hold the Lessee harmless for any and all claims. In the event that Lessee's insurance company is required to make payment therefor, then, and in that event, the insurance company shall be subrogated to the rights of the Lessee against the Lessor herein.

3. LESSOR agrees that the LESSEE shall withhold payment of any and all sums then or thereafter due the LESSOR to the extent of such expense and claims until the determination of such expense and valid claims which amount shall be deducted to the satisfaction thereof.

4. LESSEE has the right to interline and interchange this leased equipment with other common carriers for purpose of transportation on their authorized routes pursuant to the rules and regulation of the Interstate Commerce Commission.

5. LESSOR agrees that during the term of this lease the motor vehicle equipment described above shall be under

such control of the LESSEE as required by the rules and regulation of the Interstate Commerce Commission and for the limited purpose of safety to the public and safe delivery of shipment.

6. LESSOR agrees that he will comply with the terms and conditions of the bills of lading covering the movement and transportation of the shipment.

LESSOR is responsible for his employees compliance with this article.

7. LESSOR agrees to be fully responsible for the above described equipment maintaining said equipment in accordance with the "safety" regulations and specifications set forth by the Interstate Commerce Commission to keep said equipment in good operating condition and appearance; to maintain such records as shall be required by the Interstate Commerce Commission, Government, State, or any other regulatory authority. LESSOR agrees to provide at his sole and own expense all necessary oil, gasoline, fuel, tires, repairs, accessories, and/or other items required for the operation and maintenance of said vehicle during the term of this lease.

LESSEE may require the LESSOR to store his equipment when not in use on the LESSEE's premises.

8. LESSOR agrees to maintain fire, theft, collision and bobtail insurance covering the above described equipment, and to be solely and fully responsible therefor. All insurance coverage must meet any insurance requirements prescribed by any federal or state regulatory agency. LESSOR is responsible for securing and maintaining his own insurance. LESSOR agrees to furnish LESSEE at the LESSEE's request a copy of a certificate of insurance covering his motor vehicle equipment.

9. LESSOR agrees that during the term of this lease:

(a) He will be solely responsible for the payment of his own Social Security Taxes, Old Age Benefits, Unemployment Compensation Taxes, Workmen's Compensation Insurance, Federal Income Taxes, license fees, and payment of all payroll deductions and taxes for employees furnished by the LESSOR.

(b) To pay fines, costs and expenses incurred in the operation of the equipment leased herein in the performance of this lease are to be borne by and be the sole responsibility of the LESSOR.

(c) To indemnify LESSEE against loss or liability, if any resulting from the injury or death of the driver or drivers of the vehicle above described or any helpers employed by such drivers in connection with the loading or unloading of said vehicles.

(d) To indemnify LESSEE against any loss or damage resulting from the negligence, incompetence or dishonesty of said drivers or helpers.

(e) To indemnify LESSEE against any loss or damage to or destruction of the trailer or other such equipment of the LESSEE towed by the LESSOR or his employee.

(f) To indemnify the LESSEE against any loss resulting from claims brought against the LESSEE for any property damage and bodily injury sustained by the public while the tractor is detached from a trailer.

10. LESSOR agrees to pay all federal, state, county, or municipal taxes including fuel tax payments, mileage tax, road tax, equipment use fees or taxes, equipment license fees, drivers' license fees, and any other taxes, fees, licenses, charges, or fines that may be assessed on its personnel, equipment, or the operation thereof.

11. The LESSOR shall perform this contract in a safe competent and workmanlike manner and shall be responsible to the LESSEE for complying and together with his employees, agents, and servants shall comply with all applicable requirements of federal, state and local government including but not limited to the rules and regulations of the Interstate Commerce Commission.

12. The LESSOR shall at its expense employ all necessary drivers, driver's helpers, and laborers who shall be experienced, competent, and qualified to carry out work to be performed by the LESSOR under this contract. Such employees shall also be qualified under and meet all the requirements of applicable federal and state laws and municipal ordinance and the rules and regulations of the Interstate Commerce Commission and other regulatory authorities.

13. It is understood and agreed that this LEASE is to remain in full force and effect for the period of time specified in Paragraph 1, unless one or more of the covenants set forth herein are breached; in that event, the party suffering or prejudiced as a result of such breach or violation of this lease may cancel this agreement forthwith. If both parties to this lease mutually agree, they may cancel this lease at any time. LESSEE may cancel this lease forthwith in the event LESSOR is involved in an accident causing a loss to the LESSEE or if LESSOR's actions in any manner cause LESSEE a loss of business.

14. LESSOR warrants that the vehicles herein listed are not subject to any existing lease and that he has the full and complete legal right to lease the said vehicle to the LESSEE herein.

15. LESSOR agrees that LESSEE may cancel this lease forthwith in the event LESSOR fails to fully comply with all ICC and State Regulatory Agency Safety Regulations.

16. Anything herein to the contrary notwithstanding neither party shall in any event be deemed to be a partner, joint venturer, associate or employee of the other in the conduct of its business nor shall either party be liable for any debts incurred by the other in the conduct of its business. The relationship of the parties during this agreement shall, at all times, be that of independent contractors.

17. LESSOR agrees that immediately upon termination of this lease it will remove all identification required by state and federal regulatory agencies which was supplied to LESSOR by LESSEE and will return said identification forthwith to the LESSEE.

18. This is the entire agreement of the parties. No alteration, amendment or future understanding shall be binding unless in writing and signed by both parties. This agreement shall be governed by the laws of the State of North Carolina. This Motor Vehicle Equipment Lease supersedes and cancels all prior agreements and leases entered into by the parties hereto.

IMPORTANT INSTRUCTIONS

19. THIS LEASE WILL NOT BE PAID UNTIL DRIVER HAS TURNED IN:

.....1. Delivery Receipts (All Waybills with not Exceptions)
.....2. Bill of Lading (If Shipment not Billed)
.....3. Original Copy of Lease (If 1 Trip or Spot)
.....4. Identification Signs (2 Signs) Number .....

.....5. Current Physical or Photo (If not on File)
.....6. Vehicle Condition Report Signed
.....7. Attached Trip Log Book Sheets
..... (a) Hours shown & Totaled

Original to Carolina Freight Carriers Corporation, Cherryville, N. C.

One copy to Owner-Lessor

One copy to Driver

One copy to Agents File